

## Message Text

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ORIGIN EA-09

INFO OCT-01 ISO-00 PM-04 L-03 TRSE-00 /017 R

DRAFTED BY DOD/ISA/FMRA:SGOLDSMITH:KA

APPROVED BY EA:RHMILLER

PM/ISO:GCHURCHILL (DRAFT)

EA/PHL:BAFLECK

EA/PHL:JELAKE

L/EA:EVERVILLE (DRAFT)

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O R 212314Z JUL 76

FM SECSTATE WASHDC

TO AMEMBASSY MANILA IMMEDIATE

INFO SECDEF

JCS

CINCPAC

CINCPACAF

CINCPACFLT

RHMGOAWBCINCPACREPPHIL

CG 13TH AF

C O N F I D E N T I A L STATE 180870

MANILA FOR USDEL, CINCPAC ALSO FOR POLAD

E.O. 11652: GDS

TAGS: MARR, RP

SUBJECT: PHILIPPINE BASE NEGOTIATIONS: TAXATION, SALES,  
AND SERVICES

REF: A. BAGUIO 57, B. MANILA 9673 USDEL 67,

C. STATE 163986, D. MANILA 9972 USDEL 100

1. TAXATION. WE HAVE NEVER ATTEMPTED TO AVOID TAXATION ON  
INCOME DERIVED FROM PHILIPPINE SOURCES NOR HAVE WE SOUGHT  
TO HAVE OUR PERSONNEL EXEMPTED FROM FILING RETURNS WHEN  
REQUIRED. ACCORDINGLY, WE SEE NO DIFFICULTY IN SUGGESTING  
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TO THE PHILIPPINES THAT IT ENFORCE ITS LAWS BY TAXING AT

THE PHILIPPINE SOURCE ANY STOCK OR REAL ESTATE TRANSACTIONS OR OUTSIDE BUSINESS ACTIVITIES BY MEMBERS OF THE FORCES OR THE CIVILIAN COMPONENT OR THEIR DEPENDENTS.

A. SIX YEAR LIMITATION. WITH RESPECT TO LIMITATION FOR CIVILIAN PERSONNEL PROPOSED PARA 4 REF A, ALTHOUGH GRAND-FATHER/EXCEPTION CLAUSE PROPOSAL IN PARA 3 REF B WOULD PROVIDE SOLUTION TO IMMEDIATE PROBLEM OF EXISTING CASES OF LONG-TERM EMPLOYEES (I.E., BARTON ET AL), WE MUST REITERATE OUR RELUCTANCE STATED PARA 3 REF C TO ANY SUCH TIME LIMITATION. RECOGNIZING THE SPECIAL INTEREST IN THE PHILIPPINES GENERATED BY THESE CASES, FACT REMAINS THAT THE WORDING OF THE U.S. DRAFT AGREEMENT GOES FURTHER THAN OTHER SOFAS IN PLACING LIMITATIONS ON CIVILIAN COMPONENT STATUS BY COMPLETELY DENYING THAT STATUS TO DUAL U.S.-PHIL NATIONALS. FURTHER, SUCH A PROPOSAL, BY DEPRIVING THE UNITED STATES OF TAX REVENUES FROM THESE EMPLOYEES, WOULD IN EFFECT TAX U.S. DEFENSE EXPENDITURES IN THE PHILIPPINES. FINALLY, WE CAN FIND NO CONCEPTUAL REASON WHY A DETERMINATION BY THE USG THAT IT IS IN THE BEST INTERESTS OF THE U.S. TO RETAIN ITS EMPLOYEES AT OVERSEAS LOCATIONS FOR EXTENDED PERIODS SHOULD RESULT IN A CHANGE OF THE EMPLOYEES' TAXABLE STATUS.

B. CONTRACTORS. WE CONCUR YOUR POSITION DESCRIBED PARA 5 REF A AND PARA 2 REF D.

C. DECLARATION FORM. RE NEGATIVE DECLARATION FORM PARA 6 REF D, QUESTION HAS ARISEN HERE WHETHER THIS TYPE OF REQUIREMENT IS UNIVERSALLY APPLIED IN PHILIPPINES TO PHILIPPINE CITIZENS, OTHER ALIENS, AND OTHER U.S. GOVT AGENCIES IN THE PHILIPPINES. WE ARE ALSO NOT CLEAR AS TO WHAT ACTIONS ON PART OF USG WOULD BE CONTEMPLATED TO ENSURE COMPLIANCE WITH FILING REQUIREMENT AND/OR TO TAKE ANY RESPONSIBILITY FOR ACCURATENESS OR FOLLOW-THROUGH. THERE ARE, OF COURSE, REALISTIC LIMITATIONS ON THE DEGREE TO WHICH WE CAN ACT AS AN ENFORCING AGENT, PARTICULARLY WITH RESPECT TO CIVILIAN EMPLOYEES AND DEPENDENTS. WE ALSO WOULD WISH TO AVOID A PRECEDENT THAT COULD INVITE OTHER COUNTRIES TO INSIST ON A SIMILAR REQUIREMENT. WOULD APPRECIATE USDEL'S EXPANDED VIEWS ON THESE QUESTIONS TO AID CONFIDENTIAL

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IN OUR FURTHER CONSIDERATION OF THE ISSUES AS WELL AS USDEL'S VIEWS ON WHETHER AGREEMENT CONCERNING FORM IS CONSIDERED IMPORTANT TO PHIL POSITION ON OTHER ASPECTS OF TAXATION ISSUE.

2. SALES AND SERVICES. WE LEAVE IT TO DELEGATION TO DETERMINE SUITABLE TIMING FOR TABLING OF PARA 1C ARTICLE XIX APPROVED PARA 7 REF C CONCERNING RESTRICTIONS ON

PURCHASES. ROBINSON

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGREEMENT DRAFT, MILITARY BASE AGREEMENTS, NEGOTIATIONS  
**Control Number:** n/a  
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**Draft Date:** 21 JUL 1976  
**Decaption Date:** 01 JAN 1960  
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**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** BoyleJA  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
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**Disposition History:** n/a  
**Disposition Reason:**  
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**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** SGOLDSMITH:KA  
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**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D760281-0470  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
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**Review Action:** RELEASED, APPROVED  
**Review Authority:** BoyleJA  
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**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** PHILIPPINE BASE NEGOTIATIONS: TAXATION, SALES, AND SERVICES  
**TAGS:** MARR, RP, US  
**To:** MANILA  
**Type:** TE  
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